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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,995	11/13/2001	Rudi Koelle	225/50556	6047

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EXAMINER	
RODGERS, MATTHEW E	
ART UNIT	PAPER NUMBER

3677

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/986,995	KOELLE ET AL.	
	Examiner Matthew E. Rodgers	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 11/5/02

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-12, in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the claims of Group I are directed towards a door handle arrangement for a door of the vehicle. This is not found persuasive because Examiner asserts that the limitation in the preamble of claim 1 "for a door of a vehicle" is mere intended use of the door handle and does not positively recite a door. Therefore, Group I, claims 1-12, does not require a door.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the limitation that the "swiveling axis is tilted relative to a vertical axis" is indefinite since a vertical axis is not defined. Examiner suggests defining the "vertical axis" relative the longitudinal axis (i.e. as being perpendicular to the longitudinal axis) since the vertical direction relative the vehicle has not been defined and could possibly be any direction depending upon the orientation of the vehicle relative its environment. Examiner withdraws the

rejection of the limitation in claim 1 that the handle is “mounted at a forward or rear end, relative to a longitudinal axis of the vehicle” as being indefinite and will treat the limitations in the claims that positively relate the handle with the vehicle such that the vehicle has a longitudinal axis extending between two lengthwise ends. Applicant should note that Examiner’s suggestions are not an indication of allowable subject matter.

Regarding claim 2, the limitation that “an angle between the guide direction and the horizontal axis is substantially equal to an angle formed between the swiveling axis and the vertical axis” is indefinite since the horizontal axis and the vertical axis are not defined. The directions “horizontal” and “vertical” are not automatically assumed in the context of the vehicle. Applicant may refer to axes as horizontal or vertical, however the axes still must be defined relative to structural elements of the invention in order to be used to properly further limit the invention.

Regarding claim 4, the limitation “the end” is indefinite since it is unclear as to what end the limitation refers.

Regarding claims 7-10, the limitation that an upper side or an underneath side of the handle pull extend “horizontally” is indefinite since no reference orientation is given to the term “horizontally.”

Regarding claim 11, the limitation that the “swiveling axis is tilted relative to a vertical axis” is indefinite since no reference orientation is given to “a vertical axis.”

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. 197 24 572 to Wegge (hereinafter “Wegge”). Wegge shows a handle pull (1, 3, 3'4, 5, 5', 2, 2') mounted to a carrier component (6, 6') within a mounting (7). The handle pull is guided within a guide mechanism (10). The sides of the guide mechanism are tilted. The guide mechanism has a guide element (holes through which arms 3' and 4' extend) having contact zones (area that contacts arms 3' and 4') that extend substantially parallel to the corresponding sides of the guide mechanism. The handle pull is equipped with a manually actuated hand grip (1). An upper side and underneath side of the hand grip extends horizontally. The swiveling axis (9) intersects a forward or rear end of the handle pull (at portions 3, 4) and intersects a forward or rear end of the vehicle since if the swiveling axis (9) is continued in either direction (left or right as shown in Figure 2), it would eventually meet the front and/or rear end of the vehicle. The carrier component (6, 6') does not pivot.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in –

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,234,041 to Larabet et al (hereinafter “Larabet”). Larabet shows a door handle assembly having an exterior handle pull (32), a support component (26a) having a mounting (30), where the handle is mounted at a first longitudinal end within the mounting where the handle pivots about a swiveling axis (40). The mounting is inclined upwards toward an exterior of the vehicle so that the swiveling axis is tilted (Figure 2) and the handle pull pivots upward and outward. The handle is guided within a guide (30e) at a second longitudinal end, the side of the guide defining a guide direction substantially perpendicular to the swiveling axis.

#### *Response to Arguments*

Applicant's arguments filed November 5<sup>th</sup>, 2002 have been fully considered but they are not persuasive. New grounds of rejection under German Patent No. 197 24 572 to Wegge (hereinafter “Wegge”) are necessitated by Applicant's amendment and are set forth above.

Applicant argues that Wegge does not show a swiveling axis intersecting a forward or rear end. From Applicant's arguments, the Examiner has drawn that the limitation in claim 1 “a forward or rear end” is intended to refer to a forward or rear end of the handle pull. Firstly, claim 1 merely states that the handle pull is mounted at a forward or rear end and that the swiveling axis of the handle pull intersects a forward or rear end. The claim does not make abundantly clear that the forward or rear end refers to the ends of the handle pull. As best interpreted by the Examiner, the limitation may refer to either the vehicle, door, or handle pull. Most closely, the limitation appears to refer to the front or rear end of the vehicle. However,

even if the limitation is clarified to read in the way that is apparently intended (i.e. to refer to the front or rear end of the handle pull), the swiveling axis still intersects the forward or rear end of the handle pull as stated in the rejection above. Examiner asserts that Wegge still meets this limitation of the claim. Additionally, it has been made clear in the rejection above that members (3, 4, 3', 5', 2, 2') are considered to be part of the handle pull (1).

Applicant argues that Larabet does not show a swiveling axis being tilted relative to a vertical axis or a mounting inclined upwards so that the handle pull pivots upward and outward when the handle pull is operated. As stated above in the rejection of claim 11 under 35 U.S.C. § 112, second paragraph, no reference orientation is given between the “vertical axis” in the claims and the structure in the claims. Furthermore, provided that it was established that the vertical axis is that of the vehicle as oriented in Figures 1 and 2 where the vertical axis is perpendicular to a longitudinal axis, the longitudinal axis extending between two lengthwise ends, such that the vertical axis extends through the top and bottom of the vehicle, then the swiveling axis (40) of Larabet clearly is tilted relative the vertical axis in the same manner that the swiveling axis shown by the instant invention is tilted since the assembly of Larabet is mounted on a tilted or inclined portion of the door. Applicant is correct in noting that Figure 2 of Larabet is a perspective or fragmentary view of the door in Figure 1 and that Figure 1 alone does not suggest that the swiveling axis is tilted. Such perspective drawings, as that of Figure 2, are intended to provide a more clear understanding of the position and orientation of the features of the invention, as Figure 2 does. Figure 1 establishes the position of the handle assembly relative the vehicle such that it is clear where the handle is positioned *relative the vertical axis*, and Figure 2

provides further explanation as to the contour of the door and shows that the swiveling axis is indeed tilted to the vertical axis of the vehicle.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Rodgers whose telephone number is (703) 306-3406. The examiner can normally be reached on regular work hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

*MR*

MR  
December 20, 2002

*Robert J. Sandy*  
ROBERT J. SANDY  
PRIMARY EXAMINER